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EXAMINER
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ART UNIT	PAPER NUMBER
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NOTIFICATION DATE	DELIVERY MODE
01/20/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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Continuation of 11 from the form PTO-303. does not place the application in

condition for allowance because:

Regarding the Applicant's arguments, dated August 17, 2009, on page 6

to page 8 of the "Remarks" pertaining to the rejections of the claims made under

35 U.S.C. § 102(b), the Applicant asserts that *Jacobson* does not describe

<u>working sets</u> and the term "working set" is <u>explicitly</u> and <u>clearly</u> defined in the

written descriptions as follows (reproduced from Applicant's Remarks – page 7,

third full paragraph – emphasis added):

> As previously argued in the response under 37 CFR § 1.111, the term working set is
> explicitly and clearly defined in the written description as follows:
>   "In a program, a working set $W(t_i, \tau)$ for $i=1,2...$, is a set of distinct memory
> segments $\{s_1, s_2...s_w\}$ accessed over the ith window of size τ. . ."[5]

Applicant's arguments are fully considered, but found to be not persuasive

for at least the following reasons:

Firstly, Examiner respectfully traverses the argument of "*working set*"

stated in the Remarks and notices that the term "*working set*" specifically pointed

out by Applicant is an exemplary "working set" expression as set forth in

"*Managing Multi-configuration Hardware via Dynamic Working Set Analysis,*" in

Proc. Of the 29th Annual Intl. Sym. On Computer Architecture, May 2002, pp.

233-244 (see page 3, lines 5-9 in Specification). Thus, the term, excerpted

above, in the claim is NOT limited to the special term set forth in the specification as Applicant argued for.

Secondly, in additions, there are various kinds of "*working set*" expressions. For example, "*working set*" expressions can be associated with a specific type of memory access, or some combination. For example, a working set expression can correspond to program instructions fetched in which case it is referred to as an instruction working set. As another example, a working set expression can correspond to data accessed via load and store instructions, in which case it is referred to as a data working set. As another example, a working set expression can correspond to fetched branch instructions, in which case it is referred to as a branch working set (see page 3, lines 14-19 in the specification)

Thirdly, the Examiner would like to point out that the claims recite only "working set" without further definition. The claims are not particularly limited to the scope as argued by the Applicant. Thus, as the claims are interpreted as broadly as their terms reasonably allow (see MPEP §2111.01(I)), the interpretation of a broad limitation of "working set" expression as in light of the specification a working set can be expressed and associated with a specific type of memory access, or some combination. As another example, a working set expression can correspond to fetched branch instructions, in which case it is referred to as a branch working set expression (see lines 14-19, page 3 in the

Specification) and the like by one of ordinary sill in the art is considered to be reasonable by its plain meaning.

Therefore, for at least the reasons set forth above, the rejections made under 35 U.S.C. § 102(b) with respect to Claims 1-23 are proper and therefore, maintained.

/Ben C Wang/   /Michael J. Yigdall/
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